

FILED

April 17, 2020

**OFFICE OF
APPELLATE COURTS**

STATE OF MINNESOTA

IN SUPREME COURT

ADM19-8002

**ORDER ESTABLISHING PUBLIC COMMENT PERIOD AND HEARING ON
PROPOSED LEGAL PARAPROFESSIONAL PILOT PROJECT**

The Implementation Committee for the Legal Paraprofessional Pilot Project was established in 2019 to evaluate the delivery of legal services in areas of unmet civil legal needs, particularly in the areas of family law, landlord-tenant disputes, or debtor-creditor disputes. The committee was directed to define the structure and rules to implement a pilot project for the delivery of civil legal services by legal paraprofessionals under the supervision of a licensed Minnesota attorney. *See In re Implementation Committee for Proposed Legal Paraprofessional Pilot Project*, No. ADM19-8002, Order (Minn. filed Mar. 8, 2019).

The Implementation Committee filed a report on March 2, 2020, recommending that a pilot project be established to evaluate the expanded use of legal paraprofessionals in providing legal services in two substantive legal areas: landlord-tenant disputes and family law disputes. Specifically, the committee recommends that legal paraprofessionals participating in the pilot project be authorized (a) to provide advice to and appear in court on behalf of tenants in landlord-tenant disputes filed in district courts with a dedicated calendar for housing matters, and (b) to provide advice to and appear in court or at mediations on behalf of clients in family-law disputes involving issues of child-support

modifications, parenting-time issues, paternity matters, and other specific topics. Participating legal paraprofessionals would also be authorized to prepare and file in court certain documents without final attorney review. Finally, the committee recommends the adoption of rules to govern the pilot project, the appointment of a standing committee to monitor and evaluate the pilot project, and the development of a communication plan to foster awareness of the pilot project.

The committee's specific recommendations are provided in the report filed on March 2, which is provided with this order along with Appendix K to that report. The committee's complete report with appendices is available on the appellate courts' public case management system, which is accessible on the judicial branch website. The proposed rules to govern the pilot project are included as an addendum to this order.

The court will consider the committee's recommendations and the proposed rules to govern the pilot project after providing a period for public comments.

Based upon all the files, records, and proceedings herein,

IT IS HEREBY ORDERED THAT:

1. Any person or organization wishing to provide written comments in support of or in opposition to the recommendation to establish a pilot project to evaluate the expanded use of legal paraprofessionals in providing certain civil legal services under the supervision of licensed Minnesota attorneys or the proposed rules for that pilot, as recommended by the Implementation Committee for the Legal Paraprofessional Pilot Project, shall file those comments with the Clerk of the Appellate Courts, using the appellate courts' e-filing application, E-MACS, if required to do so. *See* Minn. R. Civ.

App. P. 125.01(a)(1). All comments shall be filed so as to be received no later than July 17, 2020.

2. A hearing will be held before this court to consider the recommendations regarding the proposed pilot project, including the proposed rules to govern that project. The hearing will take place in the Supreme Court Courtroom, State Capitol, Saint Paul, Minnesota, on August 11, 2020, at 10 a.m. Any person or organization who wants to make a presentation at the hearing in support of or in opposition to the recommended pilot project or the proposed rules shall file a request to so appear along with one copy of the material to be presented with the Clerk of the Appellate Courts, using the appellate courts' e-filing application, E-MACS, if required to do so. *See* Minn. R. Civ. App. P. 125.01(a)(1). All requests and accompanying materials shall be filed so as to be received no later than July 17, 2020.

Dated: April 17, 2020

BY THE COURT:



Lorie S. Gildea
Chief Justice

ADDENDUM

PROPOSED AMENDMENTS TO THE STUDENT PRACTICE RULES

[The proposed text of Rule 4 is entirely new and therefore is shown without underlining]

Student Practice Rules And Rules Governing Legal Paraprofessional Pilot Project

* * * *

Rule 4. Authorized Practice by Legal Paraprofessionals in Pilot Project

Rule 4.01 Scope of Work

An eligible legal paraprofessional may, under the supervision of a member of the bar, provide the following services:

- (a) Provide advice to and appear in court on behalf of tenants in housing disputes as defined in Minnesota Statutes Chapter 504B and Minnesota Statutes § 484.014. Eligible legal paraprofessionals may only provide such services in district courts that have established a Housing Court or a dedicated calendar for housing disputes.
- (b) Provide advice to and appear in court on behalf of clients in family law cases, but such services shall be limited to advice and hearings related to child-support modifications, parenting-time disputes, and paternity matters. With the approval of the supervising attorney, legal paraprofessionals may also appear in court in family law cases for the following purposes: (1) default hearings, (2) initial case management conferences (ICMC), (3) pretrial hearings, (4) early case management hearings, and (5) informal family court proceedings, as approved by the Minnesota Supreme Court. Legal paraprofessionals may also appear with a client in family law mediations where, in the judgment of the supervising lawyer, the issues are limited to less complex matters, which may include simple property divisions, parenting time matters, and spousal support determinations. Under no circumstances shall a legal paraprofessional provide advice or appear in court or at a mediation under this subpart if the family law case involves allegations of domestic abuse or child abuse.
- (c) With authorization from the supervising attorney, prepare and file a limited set of documents identified in Appendix 1 to these rules without the supervising attorney's final review.

Communications between the client and the eligible legal paraprofessional shall be privileged under the same rules that govern the attorney-client privilege and work product doctrine.

For each case where a legal paraprofessional will appear in court on behalf of the client, the certificate of representation for the matter must identify both the supervising attorney and the legal paraprofessional. The legal paraprofessional may sign the certificate of representation, but must include with the filed certificate of representation a statement signed by the supervising attorney that authorizes the legal paraprofessional to appear in court. The signed authorization must identify the types of proceedings that the legal paraprofessional is authorized to handle and must specify the dates on which the legal paraprofessional is allowed to appear.

Rule 4.02 Eligible Legal Paraprofessionals

An eligible legal paraprofessional must meet the following requirements:

(a) Education and Work Experience Requirements. To participate in the pilot project, a legal paraprofessional must have the following education or work experience:

- (1) an Associate's or Bachelor's Degree in paralegal studies from an institutionally accredited school; or
- (2) a paralegal certificate from an institutionally accredited school in addition to an Associate's or Bachelor's degree in any subject from an institutionally accredited school; or
- (3) a law degree from an ABA accredited school; or
- (4) a high school diploma and 5 years of substantive paralegal experience.

(b) Ethics and Continuing Legal Education Requirements. To participate in the pilot project, a legal paraprofessional must satisfy the following ethics and continuing education requirements:

- (1) hold Minnesota Certified Paralegal credentials from the Minnesota Paralegal Association; or
- (2) provide proof that the legal paraprofessional has earned ten continuing legal education (CLE) credits, including two credit hours in ethics, within the two years prior to seeking certification under Rule 4.04(a); or
- (3) provide proof that the legal paraprofessional has obtained a paralegal studies degree or certificate, or a juris doctorate within the two years prior to seeking certification under Rule 4.04(a). Such a program must include an ethics component.

(c) Written Agreement with a Supervisory Attorney. To participate in the pilot project, a legal paraprofessional must enter into a written agreement with a licensed Minnesota attorney who agrees to serve as the paralegal's supervisory attorney. The written

agreement must set forth the scope and types of work the legal paraprofessional may undertake consistent with the scope of the pilot project.

(d) Roster of Approved Legal Paraprofessionals. To participate in the pilot project, a legal paraprofessional must remain in good standing on the roster of approved legal paraprofessionals established and maintained by the Standing Committee on the Legal Paraprofessional Pilot Project.

Rule 4.03 Supervisory Attorney

The attorney who supervises a legal paraprofessional authorized to participate in the pilot project shall:

- (a) be a member, in good standing, of the bar of this court;
- (b) assume personal professional responsibility for and supervision of the legal paraprofessional's work, including court appearances;
- (c) assist the legal paraprofessional to the extent necessary, and sign all pleadings;
- (d) carry malpractice insurance that will sufficiently cover the attorney's supervision of the legal paraprofessional and the work and actions of the supervised legal paraprofessional, or ensure that the legal paraprofessional has secured adequate malpractice insurance; and
- (e) execute a written agreement that establishes the terms of the supervised legal paraprofessional's work and the supervision conditions.

Rule 4.04 Standing Committee for Legal Paraprofessional Pilot Project.

The Standing Committee for the Legal Paraprofessional Pilot Project shall establish, in collaboration with the State Court Administrator, procedures as follows:

- (a) for certifying legal paraprofessionals as authorized to participate in the pilot project and establishing and maintaining a public roster of legal paraprofessionals eligible to participate in the pilot project;
- (b) for evaluating the results and outcome of the pilot project; and
- (c) for submitting, reviewing, investigating, and resolving complaints made against legal paraprofessionals and supervising attorneys, including removing legal paraprofessionals from the roster and prohibiting supervising attorneys from participating in the pilot project if there is a good cause to do so. Rostered legal paraprofessionals and supervising attorneys shall cooperate with standing committee investigations and failure to cooperate may be the basis for removal from the pilot project.

FILED

March 2, 2020

**OFFICE OF
APPELLATE COURTS**

REPORT AND RECOMMENDATIONS TO THE MINNESOTA SUPREME COURT

**IMPLEMENTATION COMMITTEE FOR PROPOSED LEGAL
PARAPROFESSIONAL PILOT PROJECT**

ADM19-8002

March 2, 2020

Hon. Paul C. Thissen, Co-Chair
Hon. John R. Rodenberg, Co-Chair

Sally Dahlquist, Inver Hills Community College
Tiffany Doherty-Schooler, Legal Aid Service of Northeastern Minnesota
Bridget Gernander, Legal Services Grant Manager and IOLTA Program Director
Tom Nelson, Minnesota State Bar Association
Christopher O. Petersen, Ameriprise Financial
Liz Reppe, State Law Librarian
Maren Schroeder, Minnesota Paralegal Association
Pam Wandzel, Fredrikson & Byron, P.A.

Kimberly Larson, Staff Attorney

I. INTRODUCTION

In March 2019, the Minnesota Supreme Court issued an Order establishing the Implementation Committee for Proposed Legal Paraprofessional Pilot Project. (See Appendix A) The Order gratefully acknowledged the prior work of the Alternative Legal Models Task Force (Task Force), convened by the Minnesota State Bar Association (MSBA). The Order authorized the Implementation Committee (Committee) to expand on one of the Task Force's recommendations and to develop a pilot project that would permit legal paraprofessionals to provide legal advice to clients, and in some instances represent them in court, under the supervision of a licensed Minnesota attorney. The purpose of the Order is to provide greater access to justice for low- and modest-income litigants in civil cases, especially in circumstances where high rates of self-representation are common.

The Order charged the Committee with defining the “format, structure, rules, and implementation of a pilot project for the delivery of civil legal services by legal paraprofessionals.” This charge included the express objective of serving clients with unmet legal needs in housing, family law, or debtor-creditor disputes. A March 2019 news statement issued by the Minnesota Judicial Branch announced the establishment of the Committee and provided data illustrating the frequency of disproportionate representation in the three areas of civil law. (See Appendix B) The 2016-2018 data¹ showed that

- In debtor-creditor disputes 93% of debtors and 4% of creditors were unrepresented
- In housing disputes 97% of tenants and 49% of landlords were unrepresented
- In family law disputes 84% of respondents and 53% of petitioners were unrepresented

The Order required the Committee to report its recommendations to the Supreme Court by the end of February 2020.

The Committee met 11 times between April 2019 and February 2020, hearing from judges, court administration staff, attorneys, paralegals, and others with an interest in the pilot project. The Committee's specific recommendations are organized into four categories:

- The scope of the Legal Paraprofessional Pilot Project
- The establishment of an oversight committee and related procedures

¹ The data were extracted from the Minnesota Court Information System (MNCIS), which tracks, among other things, whether a party is represented. MNCIS records indicate on which days, if any, an attorney represents a client during the life of a case. The State Court Administrator's Office pulled this information for select case-types ancillary to the work of the Task Force. A litigant was considered to be unrepresented when, for at least 90% of the days in the life of a case, the MNCIS records showed no attorney representing that litigant.

- The development of a pilot project evaluation plan and tools
- The creation of a communication and marketing plan

At the heart of the Committee's recommendations is the recognition that the primary purpose of the Legal Paraprofessional Pilot Project is to provide greater access to justice and offer the best possible outcomes for litigants in Minnesota's courts. The recommendations are designed to guide the establishment of a pilot project that not only will provide a vehicle for legal paraprofessionals to deliver civil legal services, but also ensure that the services are effective and protect the litigant's interests.

II. SUMMARY OF IMPLEMENTATION COMMITTEE WORK

The Committee considered the experiences of other jurisdictions and their efforts to address similar issues in their states, learned about current efforts focused on the three areas of unmet civil legal need in Minnesota communities, and listened to the concerns and ideas of interested stakeholders. The Committee thoroughly deliberated the requirements of the Order and reviewed detailed filing data for Minnesota's district courts to understand the needs specific to litigants in the three areas of law. (See Appendix C) The Committee also discussed a variety of models for the pilot project, searching for options that would provide the most benefit to parties and create an economically sustainable approach for attorneys and legal paraprofessionals. The Committee discussed in depth the need to include in the pilot program both a market-based approach where entrepreneurial attorneys, with the assistance and cooperation of legal paraprofessionals, could provide services to low- and modest-income litigants in Minnesota while building a sustainable and profitable practice and non-market-based opportunities through enhancement of legal aid services programs.

A. Overview of Areas of Unmet Civil Legal Need

During its kickoff meeting, the Committee discussed the Order to acquire a united understanding of the scope of the Committee's work and of the pilot project. Representatives from the MSBA and the states of Utah and Washington shared information with the Committee at this first meeting. The overview provided by the MSBA representative covered the work of the Task Force. (See Appendix D) The goal of the Task Force was to develop a model for achieving effective access to justice for low- and modest-income Minnesotans. The Task Force sought to do this by focusing on the possibility of working with legal paraprofessionals in new and creative ways to address unmet legal needs, with a particular focus on rural Minnesota. The Task Force considered three different models:

1. A regulated, non-lawyer provider model. This model, after deliberation, was not presented to the MSBA Assembly as a viable option.

2. A “Limited License Legal Technician” model, sometimes referred to as LLLT. This model was also discussed but not presented to the Assembly.
3. An expanded or enhanced legal paraprofessional model, which contemplated a qualified, designated, and supervised legal paraprofessional role. Although this model was presented to the Assembly, it did not pass.

Although the Task Force’s recommendations were not implemented, the Committee benefitted greatly from the Task Force’s work and lessons learned. The Task Force work helped shape the Committee’s recommendations.

Representatives from legal paraprofessional programs in the states of Utah and Washington informed the Committee that the need for increased availability of legal representation in the areas of family law, housing law, and debtor-creditor disputes is not unique to Minnesota. Both representatives confirmed that the research and analysis of the issues in their states showed that, to alleviate representation disparities, legal paraprofessionals might be able to provide effective legal help with adequate supervision.²

The Committee focused the next several meetings on expanding its knowledge of the substantive legal areas identified by the Supreme Court that might benefit from the pilot project. The Committee gathered and reviewed information, including court case data from 2016-2018 on whether community needs were being met in landlord-tenant cases (housing law disputes), debtor-creditor cases, and family law cases. The Committee also learned about current practices in district courts and other legal programs that provide assistance to parties in those three areas. Representatives from the Second and Fourth Judicial Districts, legal aid offices, and other legal practitioners met with the Committee to discuss needs and existing programs and supports for housing law disputes. Dialogue with these representatives revealed that housing courts in the Second and Fourth Judicial Districts currently benefit from multiple pro bono and low bono services. The Committee was impressed with the degree of sophistication and coordination in those districts for serving the legal needs of low-income housing law litigants.

The Committee also spent significant time learning about paralegal education, training, and certification, including training on legal ethics. Representatives from the Minnesota Paralegal Association and ABA Standing Committees on Paralegals as well as from institutions that provide paralegal education in Minnesota provided the Committee with in-depth information on paralegal preparation and qualifications. The information formed the basis for many of the Committee’s recommendations. (See Appendix E)

² Utah program, <https://www.utcourts.gov/utc/limited-legal/>, Washington program, <https://www.wsba.org/for-legal-professionals/join-the-legal-profession-in-wa/limited-license-legal-technicians>.

A district court judge from the Seventh Judicial District and the Deputy Director from Mid-Minnesota Legal Aid's St. Cloud office met with the Committee, as did MSBA Family Law Section representatives, to discuss needs and opportunities in the area of family law. The information presented to the Committee suggested that there is significant need for affordable legal representation in family law cases, especially in rural areas of the state and in regional centers like St. Cloud.

The Committee learned that consumer debt cases (debtor-creditor disputes) represent a large volume of cases in Minnesota district courts and that significant need for additional legal services and advice exists, especially for debtors. Nonetheless, the Committee ultimately decided not to recommend a pilot project in the case of debtor-creditor disputes. The Committee concluded that, outside of cases brought under the federal Fair Debt Collection Practices Act where lawyers may recover attorney fees and are currently providing legal services, the economics of debtor-creditor disputes make a market-based approach challenging. Further, the Committee recognized that the best place for intervention in debtor-creditor cases is before a complaint is filed, or within days thereafter, and the infrastructure is not currently in place to make a pilot project effective.

B. Format, Structure, and Rules

The Committee spent several meetings discussing the qualifications that should be required of legal paraprofessionals and supervising attorneys participating in the pilot project. The Committee received information and insight from paralegals, attorneys, civil legal services, educators, and other legal practitioners. In particular, the director of the Office of Lawyers Professional Responsibility (OLPR) presented information to the Committee about the statutes and rules related to the unauthorized practice of law. The OLPR director described some of the activities that are unlawful for a person who is not a member of the Minnesota bar to conduct. (See Appendix F) After much deliberation about suitable qualifications and experience for participants in the pilot project, it was suggested that Minnesota's student practice rules might provide a model for legal paraprofessional supervision in this pilot project. The Committee's recommended supervision requirements borrow heavily from the Student Practice Rules.³

The Committee explored whether and how malpractice insurance coverage may be available to legal paraprofessionals who participate in the pilot project. The Committee Co-Chairs met with the Board of Law Examiners and the MSBA Family Law Sections. As of this writing, questions remain about whether there is a market for separately insuring legal paraprofessionals or if the supervising attorney should be required to guarantee the

³ Minnesota Student Practice Rules, <https://www.ble.mn.gov/student-practice-rules/>.

actions of the legal paraprofessionals who are insured under the attorney's malpractice insurance policy.

The Committee heard about efforts underway in Crow Wing County in northeastern Minnesota and Olmstead County to provide more legal assistance to tenants in housing disputes. In the Crow Wing County model, a legal aid office worked with the local court to establish a calendar each week for housing law disputes so that legal aid attorneys and/or legal paraprofessionals could be present to provide advice and representation more efficiently. (See Appendix G)

The Committee also received information about the Justice for All Grant, another Judicial Branch effort aimed at offering a simplified family court process that could eventually benefit from the assistance of qualified legal paraprofessionals for unrepresented parties. (See Appendix H) This program will pilot its own efforts in 2020-2021, so opportunities to coordinate with the pilot project remain open for future evaluation.

Another model that the Committee reviewed was a regulatory "sandbox" approach. The regulatory "sandbox" is a policy structure creating a controlled environment in which new consumer-centered innovations, which may be unlawful or unethical under current regulations, can be piloted and evaluated. The Utah Supreme Court issued an August 2019 report detailing this approach in their state.⁴ The Committee reviewed this report, but determined that replicating Utah's level of regulatory oversight would require new funding, which is not available for this pilot project. The Committee therefore concluded that a regulatory "sandbox" approach is not practical at this time. The Committee recommends, however, that this approach be revisited and implemented if the pilot project is expanded in the future.

C. Stakeholder Outreach

The Committee committed early on to reach out to critical stakeholders. Committee members considered detailed information about the skills and abilities of paralegals in Minnesota. Their knowledge was critical to the Committee because of their experience as leaders in professional associations and higher education institutions that are responsible for certifying and training individuals in the paralegal field. Committee members also met with several individuals, including lawyers and other legal professionals, outside of committee meetings to explain the Committee's charge and to hear concerns, comments, and other feedback.

⁴ Utah Implementation Task Force on Regulatory Reform, <https://sandbox.utcourts.gov/>.

The Committee also recognized that it did not have a thorough understanding of how legal paraprofessionals, including paralegals, work with attorneys, firms, or other legal professionals. To gain a more complete understanding, the Committee distributed a survey to Minnesota licensed attorneys, district court judges, and some paralegal association members in Minnesota. The Committee received 579 responses to the survey. (See Appendix I) Some survey respondents opposed any expansion of legal paraprofessional responsibilities. Others conveyed strong support for the effort. The Committee noted the concerns raised by “opposing” responses and incorporated those concerns into its deliberations. Nevertheless, understanding its charge to develop a pilot project for the Supreme Court, the Committee determined that abandoning the pilot project in the face of some opposition is not for the Committee to recommend.

The Committee worked with State Court Administration to organize and evaluate the many survey responses. The Committee learned that the range of responsibilities that Minnesota lawyers entrust to paralegals varies widely. Some lawyers limit their paralegals to a narrow range of responsibilities that is much more limited than what is allowed under current Minnesota law and Rules of Professional Responsibility. The Committee believes that expanded lawyer education should be made available regarding the level of responsibility that legal paraprofessionals are currently allowed to undertake.

After reviewing the survey responses, the Committee enlisted a focus group to gain additional outside perspectives. Several attorneys and legal paraprofessionals volunteered to participate in the focus group and met at the Judicial Center over the course of two days. The group made several helpful suggestions for the Committee’s consideration that helped formulate some of the Committee’s recommendations to the Court. (See Appendix J)

III. REASONS FOR IMPLEMENTATION COMMITTEE RECOMMENDATIONS

Under the Order, the Committee “must limit the pilot project to one of three areas of unmet need in civil law.” The Committee nevertheless respectfully suggests that the Supreme Court consider piloting in two of the three substantive legal areas: housing law disputes and family law disputes.

The Committee concludes that a pilot project for landlord-tenant disputes allowing the expanded use of legal paraprofessionals operating under the supervision of attorneys has the potential to assist civil legal aid providers to serve more Minnesota litigants. Several legal aid entities have expressed interest in deploying their existing legal paraprofessionals to do a broader range of legal work than is currently allowed. Corporate legal entities have also expressed their willingness to have their legal paraprofessionals provide assistance to legal services on a pro bono basis through the pilot project, possibly assisting with both housing law disputes and family law cases.

In the area of family law disputes, the Committee sees merit in testing a market-based approach where attorneys may expand their current business model by capitalizing on the expanded scope of legal paraprofessional activity to serve more clients. Through conversations with private attorneys, the Committee believes that there is interest in the legal community to test the market-based approach as well.

Although the Committee proposes that the pilot project include both of these substantive legal areas, it also recognizes that the Supreme Court will determine whether and how the pilot project proceeds. The Committee's recommendations that set forth the format, structure, and implementation of the pilot project are applicable regardless of the Court's decision on which legal area to focus the pilot project.

IV. RECOMMENDATIONS

Based on the information gathered during the course of the Committee meetings, the survey, the focus-group process, and meetings with stakeholder groups, the Committee identified three goals for the pilot project:

- A. Assess whether allowing legal paraprofessionals an expanded scope of work will help reduce unmet civil legal needs among low- and modest-income Minnesotans.
- B. Determine whether allowing legal paraprofessionals an expanded scope of work will improve court efficiency.
- C. Evaluate the sustainability and effectiveness of allowing legal paraprofessionals an expanded scope of work in the areas of housing and family law.

The Committee's substantive recommendations are aimed at achieving these goals.

Recommendation 1: The Scope of the Legal Paraprofessional Pilot Project Should Focus on both Housing Law Disputes and Family Law Disputes.

The Committee recommends that the Court establish a legal paraprofessional pilot project for housing law disputes and family law cases. The Committee recommends that the pilot project start on January 1, 2021, and end on June 30, 2022. The Committee further recommends that the scope of work within each substantive area must be under the supervision of a licensed attorney and should be limited as follows:

- A. The scope of the work that legal paraprofessionals may conduct in housing law disputes is limited to providing advice to and appearing in court on behalf of tenants in housing disputes as defined in Minnesota Statute Chapter 504B and Section 484.014. The decision as to whether a case is suitable for a legal paraprofessional to appear in court

should be left to the judgment of the supervising lawyer who can assess the complexity of the issues and the legal paraprofessional's training and experience.. The Committee further recommends that the pilot project for landlord-tenant disputes be limited to district courts that have established a Housing Court or a dedicated calendar for housing law disputes. The Crow Wing County Eviction Court Project described in Appendix G is an example.

The Committee appreciates that some landlords, especially those who lease space in their personal homes, may also benefit from advice and representation by legal paraprofessionals. Although the Committee does not recommend including landlord representation during the pilot project, such a possibility could be revisited in the future.

B. The scope of the work that legal paraprofessionals may conduct in family law disputes is limited to:

- Providing advice to and appearing in court on behalf of clients in cases dealing with child-support modifications, parenting time disputes, and paternity matters, appearing for default hearings, initial case management conferences (ICMC), pretrial hearings, early case management hearings, and informal court proceedings
- Providing advice to and representing clients in mediations where, in the judgment of the supervising lawyer, the issues are limited to less complex matters such as simple property divisions, parenting time, and spousal support
- With authorization from the supervising attorney, preparing and filing a limited set of documents without the supervising attorney's final review. (See Appendix K) Family cases involving allegations of domestic violence and/or child abuse should not be part of the pilot project.

Recommendation 2: Establish a Standing Committee for the Legal Paraprofessional Pilot Project to Oversee Pilot Project Development and Implementation.

The Committee recommends that the Court create and authorize a standing committee to further develop these proposed oversight recommendations before implementing the pilot project. The standing committee should be charged with the following tasks:

- A. Create an application and approval process that meets the requirements set forth by the Court based on these recommendations;
- B. Establish minimum qualifications and guidelines for legal paraprofessionals and supervising attorneys who participate in the program; and
- C. Develop and implement a complaint process to protect consumers.

The Committee additionally recommends that the standing committee's membership include, at a minimum, one lawyer who has substantial experience in, and currently practices, family law; one lawyer who has substantial experience in, and currently practices in, housing court; one legal aid lawyer; more than one paralegal; one district court judge; and one public non-lawyer/non-paralegal member.

Recommendation 2.1: Create an Application and Approval Process to Ensure Legal Paraprofessionals and Supervising Attorneys Meet Specific Minimum Qualifications and Requirements to Participate in the Pilot Project.

The Committee recommends that the standing committee create an application and approval process to establish a roster of legal paraprofessionals who are approved to participate in the pilot project. The standing committee should also develop rules and regulations for the removal of legal paraprofessionals from the roster if necessary. These rules and regulations should focus on consumer protection.

A. Legal Paraprofessional Roster Certification

As part of a thorough application process, the legal paraprofessional shall submit to the standing committee a written statement from attorneys who will supervise his or her work in the pilot project. The standing committee shall determine approval for certification based on the application, which shall include a statement:

1. That the supervising attorney agrees to supervise the legal paraprofessional;
2. That the supervising attorney vouches for the legal paraprofessional's skills, abilities, and substantive law-related experience to competently engage in the required work; and
3. That, in the supervising attorney's judgment and experience, the legal paraprofessional is qualified to participate in the pilot project as outlined in Recommendation 2.2.

B. Termination of Roster Certification

The certification shall remain in effect for the duration of the pilot project after the date the legal paraprofessional's application is approved. Roster certification shall terminate sooner upon the occurrence of any of the following events:

1. The supervising attorney withdraws certification by mailing notice to that effect to the legal paraprofessional, all courts where a joint certificate of representation has been filed, and to the standing committee, along with the reason(s) for such withdrawal.

2. The legal paraprofessional withdraws certification by mailing notice to that effect to the supervising attorney and to the standing committee.
3. The standing committee terminates certification by mailing notice to that effect to the legal paraprofessional and the supervising attorney, along with the reason(s) for such termination.

Recommendation 2.2: Establish Qualifications for Legal Paraprofessional Practice and Attorney Supervision in the Pilot Project.

The Committee recommends the following guidelines, modelled after the Student Practice Rules, for the standing committee's consideration:

A. Eligible Legal Paraprofessionals

An eligible legal paraprofessional is one who:

1. Has the following education and/or work experience:
 - a. An Associate's or Bachelor's Degree in paralegal studies from an institutionally accredited school; or
 - b. A paralegal certificate from an institutionally accredited school in addition to an Associate's or Bachelor's degree in any subject from an institutionally accredited school; or
 - c. A law degree from an ABA accredited school; or
 - d. A high school diploma and 5 years of substantive paralegal⁵ experience.
2. Meets established ethics and continuing education requirements. Legal paraprofessionals may achieve these requirements by:
 - a. Holding the Minnesota Certified Paralegal (MnCP) credentials from the Minnesota Paralegal Association; or
 - b. Providing sufficient proof that the legal paraprofessional has earned ten (10) continuing legal education (CLE) credits, including two credit hours in ethics, within the two years prior to seeking certification; or
 - c. Providing proof that the legal paraprofessional has obtained a paralegal studies degree or certificate, or a juris doctorate within the two years prior to seeking certification. Such a program must include an ethics component.

⁵ The Minnesota Paralegal Association defines a paralegal as a person qualified through education, training, or work experience to perform substantive legal work that requires knowledge of legal concepts and is customarily, but not exclusively, performed by a lawyer. This person may be retained or employed by a lawyer, law office, government agency or other entity or may be authorized by administrative, statutory or court authority to perform this work.... Additionally, the term "substantive" shall mean work requiring recognition, evaluation, organization, analysis, and communication of relevant legal facts and concepts. (<https://www.mnparalegals.org/About>).

B. Supervisory Attorney

The attorney who supervises a legal paraprofessional shall:

1. Be a member, in good standing, of the bar of this Court;
2. Assume personal professional responsibility for and supervision of the legal paraprofessional's work, including court appearances;
3. Assist the legal paraprofessional to the extent necessary;
4. Sign all pleadings;
5. Carry malpractice insurance that will sufficiently cover the attorney's supervision of the legal paraprofessional and the work and actions of the supervised legal paraprofessional, or ensure that the legal paraprofessional has adequate insurance;
6. Maintain regular and continuing supervision check-ins with the legal paraprofessional(s) under his or her supervision; and
7. Execute a clear, written agreement of the extent of work of the legal paraprofessional consistent with the scope of the pilot project prior to beginning the work.

Recommendation 2.3: Develop a Complaint Process.

The Committee recommends that the standing committee define a complaint process that is transparent and accessible to the public. The goal of the complaint process should be to protect consumers and hold providers accountable to professional standards.

The complaint process should include procedures for submitting, reviewing, and investigating complaints made against legal paraprofessionals and supervising attorneys in the pilot project. The Committee recommends these procedures be inclusive and accessible to all individuals. For example, the procedures must support language access for Limited English Proficient individuals. The complaint process should also define the consequences if it is determined that a complaint is valid and supported.

The Committee recommends that the standing committee review and investigate complaints about pilot project rostered legal paraprofessionals and supervising attorneys. The Committee further recommends that the standing committee be authorized to remove legal paraprofessionals from the roster and prohibit supervising attorneys from participating in the pilot project if there is a good cause to do so. Rostered legal paraprofessionals and supervising attorneys shall cooperate with standing committee investigations and failure to cooperate may be the basis for removal from the pilot project.

Recommendation 3: Certificates of Representation

For each case where a legal paraprofessional will appear in court on behalf of the client, the certificate of representation for the matter must identify both the supervising attorney and the legal paraprofessional. The legal paraprofessional may sign the certificate of representations, but must include with the filed certificate of representation as statement signed by the supervising attorney that authorizes the legal paraprofessional to appear in court. The signed authorization must identify the types of proceedings that the legal paraprofessional is allowed to handle and must specify the dates on which the legal paraprofessional is allowed to appear.

Recommendation 4: Develop an Evaluation Plan and Tools

The Committee recommends that the standing committee, or a workgroup designated by the standing committee, develop an evaluation plan for the pilot project in collaboration with the State Court Administrator's Office. The evaluation plan should measure the pilot project's impact on each of the three goals set forth in Recommendation 1. The evaluation plan should contain quantitative and qualitative measures, including surveys of clients, lawyers (supervising and non-supervising), legal paraprofessionals, judges, and court administrators.

Recommendation 5: Develop a Communication Plan and Select an "Identifier" that Distinguishes the Role of the Rostered Legal Paraprofessionals.

The Committee recommends the formation of an ongoing working group to develop a marketing communication plan to increase consumer, lawyer, and legal paraprofessional awareness about the pilot project by collaborating with strategic marketing partners both within and outside the Judicial Branch.

- A. Consistent with Minnesota's Rules of Professional Responsibility, the communication plan should expand awareness of the pilot project in a convenient and inclusive manner. To that end, published communication should include appropriate language formats. The following communication methods may be considered:
 1. Generate lists of all legal paraprofessionals and utilize targeted mailings and emails to inform those legal paraprofessionals of the pilot project.
 2. Publish pilot project information in web-based publications and public spaces, such as public and law libraries, community centers and organizations (especially those that serve underrepresented groups), and religious organizations.
- B. Draft and distribute a general notice of the pilot project to all firms, statewide attorney associations (e.g., MSBA, affinity bar associations, and Lawyers Concerned for Lawyers), and paralegal associations to help attract supervising attorneys and legal paraprofessionals.
 1. The Committee recommends the creation of an "identifier" for legal paraprofessionals who are participating in the pilot project. The Committee

considers this important because the purpose of the pilot project is to expand the services of all legal paraprofessionals through an approved certification process within the scope of the pilot project. The Committee suggests that it would be helpful if the ongoing working group includes people with a background in marketing. The goals for this recommendation are to establish a unique identifier that is attractive to individuals who may be interested in participating in the pilot project and distinguishes legal paraprofessionals who meet the requirements of, and are participating in, the pilot project from those who are not.

V. CONCLUSION

The Committee believes that the implementation of the Legal Paraprofessional Pilot Project has the ability to positively impact access to justice in Minnesota. The Committee urges the Supreme Court to continue to seek ways to expand upon the recommendations contained in this report, through the encouragement and support of ongoing innovative and entrepreneurial efforts to serve the unmet civil legal needs of low- and modest-income litigants in Minnesota's courts.

The Committee appreciates the cooperation it received from district court judges, the Minnesota State Bar Association and its sections, private attorneys, legal aid attorneys and managers, the Minnesota Paralegal Association, private and public paralegals, State Court Administration, the Office of Lawyers Professional Responsibility, the Board of Law Examiners, and all of the others who helped the Committee with this compressed and intensive effort to develop these recommendations. The Committee also thanks those who helped write the Report and Recommendations, especially Hannah Reichenbach, Sarah Doege, Madeline Baskfield, Brandon Carmack, Maria Campbell, and Joann Gillis.

Respectfully Submitted,

IMPLEMENTATION COMMITTEE FOR PROPOSED
LEGAL PARAPROFESSIONAL PILOT PROJECT

Appendix K

Recommended Documents Legal Paraprofessionals May File without Final Attorney Review

General Filing Documents

- Notice of Appearance
- Certificate of Representation
- Application to Serve by Alternate Means
- Affidavit of Default
- Affidavit of Service
- Substitution of Counsel
- Notice of Withdrawal
- Notice of Filing
- Affidavit for Proceeding In Forma Pauperis
- Proposed In Forma Pauperis Order
- Settlement Agreement
- Request for Continuance
- Motion to Request Correction of Clerical Mistakes

Landlord-Tenant Specific

- Affidavit of Compliance and Proposed Order for Expungement
- Notice of Motion and Motion for Expungement of Eviction Record
- Petition for Emergency Relief Under Tenant Remedies Act
- Rent Escrow Affidavit
- Eviction Answer
- Eviction Action Proposed Findings of Fact, Conclusions of Law, Order and Judgment
- Answer and Motion for Dismissal or Summary Judgment (Eviction)
- Notice of Motion and Motion to Quash Writ of Recovery
- Petition for Possession of Property After Unlawful Lockout

Family Law Specific

- Confidential Information Form 11.1
- Confidential Information Form 11.2
- Felon name change notice
- Notice to Public Authority
- Notice of Default and Nonmilitary Status
- Affidavit of Non-Military Status
- Default Scheduling Request
- Notice of Intent to Proceed to Judgment
- Proposed Default Findings
- Initial Case Management Conference Data Sheet
- Scheduling Statement
- Parenting/Financial Disclosure Statement
- Discovery (Interrogatories, Request for Production of Documents, Request for Admissions)
- Summary Real Estate Disposition Judgment
- Certificate of Dissolution
- Delegation of Parental Authority
- Revocation of Delegation of Parental Authority
- Application for Minor Name Change
- Parenting/Financial Disclosure Statement
- Certificate of Settlement Efforts
- Notice of Motion and Motion to Modify Parenting Time
- Stipulation of the Parties
- Notice of Motion and Motion to Modify Child Support/Medical Support
- Notice of Motion and Motion (examples: Stop COLA, Reinstate Driver's License)
- Request for County to Serve Papers